indictment was found at least two years after the statute became effective. Both cases are supported by earlier decisions within their respective states. But it can be argued that after the parties have gone to trial and the jury, without previous objection from counsel, has submitted a verdict establishing the defendant's guilt, the court should allow a certain presumption that the venue was well proven or that the act was an offense against an established statute. Such, apparently, is the weight of American authority. CORPUS JURIS, Criminal Law, § 1572. The result would be to place the burden of objection on the defendant to a certain extent, but the insistence of the courts in the principal cases on the clarity of the record is apparently inconsistent with the spirit of code practice and clearly offers to the convicted criminal an additional avenue of escape on purely technical grounds.

CRIMES—PERJURY—CONTRADICTORY STATEMENTS ACCOMPANIED BY ADMISSION.—The defendant was convicted of perjury alleged to have been committed by falsely swearing at a preliminary hearing before a magistrate. It appears that at the preliminary hearing he testified as to certain facts and on the trial of the case he testified that his previous testimony was false. *Held,* on appeal, that defendant's contradictory testimony, accompanied by a definite admission that his testimony as previously given was false, was not sufficient to support a conviction of perjury. *State v. Burns* (S. C., 1922), 113 S. E. 351.

The rule is now well established that a conviction for perjury cannot be sustained merely on the contradictory sworn statements of the defendant, but the state must prove which of the two statements is false and must show that statement to be false by other evidence than the contradictory statement. *State v. Binkley,* 123 Ark. 240; *Billingsley v. State,* 49 Tex. Cr. P. 620; *Paytes v. State,* 137 Tenn. 129; *People v. McClintic,* 193 Mich. 589. The reason for this rule seems to be that it is not possible to tell which is the true and which is the false statement. *Schwartz v. Com.* 27 Gratt. (Va.) 1025. *A fortiori,* one cannot be convicted upon proof of a contradictory statement made by him, not under oath. *State v. Hunter,* 181 Mo. 316; *State v. Buckley,* 18 Ore. 228; *Miles v. State,* 73 Tex. Cr. R. 493. Because of the solemnity of the oath, credit should be given to the sworn statement rather than to the unsworn statement. The only American case holding contrary to the general rule is *People v. Burden* (N. Y.), 9 Barb. 467, a case similar on its facts to the principal case, in which the court held that when a defendant has made contradictory statements under oath, and in the second he has acknowledged the intentional falsity of the first, that acknowledgment is sufficient to establish the perjury of the first without further evidence. In criticising this *Burden* case, the court in *Schwartz v. Com., supra,* said that "the acknowledgment that the first statement was untrue may itself be false, and we place no confidence in either statement, from an absolute inability to determine which is true, or whether either is true." But it seems that where two sworn contradictory statements are made by the same person, it may with certainty be concluded

that one or the other is false. And if the defendant admits that one of the statements is false it seems that this should be controlling. The result of the above rule is that where, as in the principal case, the statements are contradictory, and one of the statements is admitted to be false, there can be no conviction for perjury unless corroboration of the admission is produced. More concretely, the result is that the prosecution may be unable to prove when the perjury was committed, although the fact of commission is absolutely clear.

DESCENT—RELEASE OF EXPECTANCY OF INHERITANCE HELD VOID.—A, whose father had died intestate leaving a farm to his widow and two other children, B and C, in consideration of $2,100, executed his quit-claim deed to the widow. The deed contained this clause: "also all right and title and heirship to and in the personal and real estate of said" widow, "which may be subject to distribution at her decease." After the decease of the widow, intestate, followed by the death of A, the plaintiff, the sole heir at law of A, brought this suit for partition. *Held*, that an attempted release of an expectancy is void and that the clause in the deed would not operate to defeat, by way of estoppel, title afterward acquired from the mother by inheritance. *Ferenbaugh v. Ferenbaugh* (Ohio, 1922), 136 N. E. 213.

The court considered itself bound by an early case. *Needles v. Needles*, 7 Ohio St. 432. The mere expectancy or chance of succession of an heir apparent to his ancestor's estate at his decease is not the subject matter of release or assignment at common law, since it is not an estate but only a mere possibility of an estate. POM. EQ. JUR., § 168; *Coffman v. Coffman*, 41 W. Va. 8. But in equity even the naked possibility or expectancy of an heir to his ancestor's estate may become the subject of assignment or settlement, and in such case, if absence of fraud or oppression and a fair consideration are shown, it will be enforced after the death of the ancestor, not as a trust attaching to the estate but as a right of contract. STORY, EQ. JUR., Vol. 2, § 1040b; POM. EQ. JUR., §§ 168 and 953; *In re Wickersham's Estate*, 138 Cal. 355; *McClure v. Raben*, 125 Ind. 139, where consent of ancestor was deemed required; *Hale v. Hollon et al.*, 90 Tex. 427, holding that the ancestor's assent is not essential to the validity of such conveyance. And it is generally held that a release by an heir apparent to his ancestor of his expectancy of inheritance, if founded upon a valuable consideration and free from fraud, will operate as an agreement and be binding in equity. *Kenney v. Tucker*, 8 Mass. 143; *Brands v. DeWitt*, 44 N. J. Eq. 545, in suit to quiet title, *Havens v. Thompson*, 26 N. J. Eq. 383; in proceedings for a partition of the ancestor's estate, *Kershaw v. Kershaw*, 102 Ill. 307; *Bolin v. Bolin*, 245 Ill. 613; *Powers' Appeal*, 63 Pa. St. 443; *Summerville's Estate*, 129 Pa. St. 631; *Liginger v. Field*, 78 Wis. 367; *Squires v. Squires*, 65 W. Va. 611; *Hilton v. Hilton*, 103 Me. 92. In *Mires v. Laubenheimer*, 271 Ill. 296, the court says that such release to the ancestor by the heir apparent operates, not as a contract or as a transfer or a conveyance either to the ancestor or to the other heirs, but as an extinguishment of his right to take any estate by descent. In *Gore v. Howard*, 94 Tenn. 577, it was held that